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EXAMINER

SHIMIZU, MATSUICHIRO

ART UNIT PAPER NUMBER

2635

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14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/777,078

Applicant(s)

CARISSIMO, ALESSANDRO

Examiner

Matsuichiro Shimizu

Art Unit

2635

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-3,6-13, 17--21 and 23-30 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-3,6-13, 17--21 and 23-30 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

Response to Amendments

The examiner acknowledges currently amended claims 1-3, 9-10, canceled claims 14, 22, and new claims 25-30.

The examiner withdraws rejection of claim 1 under 35 U.S.C. 112, second paragraph in view of currently amended claim 1.

The examiner withdraws allowance of claims 11 in view of prior art of Chuang (5,987,421), and provides rejection of claim 11.

Response to Arguments

Applicant's arguments filed on 10/8/2003 have been fully considered and examiners response is provided as follows:

Regarding applicant's argument (lines 12-17, page 9), the examiner maintains that both Lovegreen and Sibbitt teach restaurant paging system (Lovegreen-col. 1, lines 49-59, coaster; Sibbitt-col.1, lines 41-44, a restaurant type pager system), and therefore, they are combinable to teach a graphic display associated with restaurant menu items or advertisements and user interface or buttons (Sibbitt-Fig. 1, col. 1, lines 36-44, pager screen display of restaurant menu items, advertisements with user selection via buttons 16,18 and 20).

Art Unit: 2635

Regarding applicant's argument (lines 12-19, page 11; lines 14-17, page 12), the examiner maintains that Diem teaches paging system (col. 2, lines 57-60, a paging system). Therefore, Diesm, Lovegreen and Sibbitt are combinable to teach a keypad or touch panel display (Diem-claim 6, col. 10, lines 33-36) for the purpose of interfacing.

Regarding applicant's argument (line 18, page 12 to line 3, page 13), the examiner maintains that Diem teaches hard media associated with transmitter (col. 4, 36-44; col. 5, lines 34-48, data storage device such as hard disk, wherein multimedia files are stored to be transmitted later (or upload or download)), as claimed in claim 13.

Regarding applicant's argument (lines 4-7, page 13), the examiner maintains that Lovegreen in view of Sibbitt teaches said a transmitter stores information relating to interaction between said receiver and its users (Lovegreen-col. 1, 49-59, signal to the coaster for notification to the user).

Regarding applicant's argument (lines 11-19, page 13; line 23, page 15 to line 5, page 16), the examiner maintains that Lovegreen teaches a charger (Fig. 5, charger 10a and 10b; col. 6, lines 46-51, reprogram), as claimed in claim 2.

In response to applicant's argument (line 10, page 16 to line 19, page 17),

Art Unit: 2635

that prior arts of Lovegreen Sibbitt and Okayama are nonanalogous arts, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, prior arts of Lovegreen Sibbitt and Okayama are reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

In response to applicant's argument (line 18, page 18 to line 5, page 19), that prior arts of Lovegreen, Sibbitt, Okayama and Diem are nonanalogous arts, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, prior arts of Lovegreen, Sibbitt, Okayama and Diem are reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

Art Unit: 2635

In response to applicant's argument (lines 3–8, page 20), McNally teaches said transmitter tracks the last several pages that were made (col. 5, lines 32–65, restaurant wait list mode of the clipboard acts as transmitter to transmit the waiting status to the pager, and updating the paged status by providing the light) to control the seating arrangement of the restaurant. How–else list of pagers on clipboard be used ?. Furthermore, that prior arts of Lovegreen, Sibbitt and McNally are nonanalogous arts, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, prior arts of Lovegreen, Sibbitt and McNally are reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention.

In response to applicant's argument (lines 12–16, page 22), Hymel teaches, in the art of paging system, mode of paging, advertising (col. 3, lines 16–30, message received; col. 4, lines 7–52, advertisement message followed by update message) using two–way communication (col. 7, lines 51–61, SCR transmit to the communication

Art Unit: 2635

center). Furthermore, that prior arts of Lovegreen, Sibbitt, Hymel and Wick are nonanalogous arts, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, prior arts of Lovegreen, Sibbitt Hymel and Wick are reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention, as claimed in claim 3.

Regarding applicant's argument (lines 1-3, page 24), the examiner maintains that Wicks teaches interactive entertainment (col. 3, lines 39-50, and col. 5, lines 21-32, two-way pager and treasure hunt; Fig. 3, interactivity associated with participant transmits the required response to the system) and Hymel teaches, in the art of paging system, mode of paging, advertising (col. 3, lines 16-30, message received; col. 4, lines 7-52, advertisement message followed by update message) using two-way communication (col. 7, lines 51-61, SCR transmit to the communication center)..

Therefore, rejections of claims 1-3, 6-13 and 17-21 and 23-30 follow:

Claim Rejections – 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 1, 9 and 29–30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen et al. (5,814,968) in view of Sibbitt (5,999,088).

Regarding claims 1 and 9, Lovegreen discloses an electronic paging system (Fig. 5, col. 1, line 49–59, a system associated with paging coaster for seating notification) comprising; a receiver (col. 5, lines 8–21, paging coasters, rechargeable electronic devices); a transmitter (col. 1, line 49–59, restaurant owner transmits or pages by sending signals to paging coaster); and a software programmer (col. 6, lines 43–51, programmer associated with reprogramming the electronic device by uploading and downloading the software associated with data communication) which uploads and downloads software to and from said transmitter and/or receiver using

Art Unit: 2635

telecommunication lines (col. 6, lines 43–51, wire-line communication to plural stacked-up remote electronic devices or pagers; col. 6, lines 43–51, programmer associated with reprogramming the electronic device by uploading and downloading the software associated with data communication). But Lovegreen does not teach a receiver with graphic display and said receiver storing information on how said user interacts with said receiver.

However, Sibbitt discloses, in the art of restaurant paging system, a receiver with a graphic display associated with restaurant menu items or advertisements (col. 1, lines 35–44, restaurant type pager; col. 1, lines 35–44, pager screen display of restaurant menu items, advertisements) for the purpose of providing a user-friendly system and enhancing the paging system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include a graphic display in the device of Lovegreen because Lovegreen suggests display and Sibbitt teaches a graphic display for the purpose of providing a user-friendly system.

Likewise, Sibbitt discloses, in the art of restaurant paging system, said receiver storing information on how said user interacts with said receiver (col. 1, lines 35–44, restaurant type pager; Figs. 1–2, interactive response associated with buttons 16 and 20) for the purpose of enhancing the paging system. Therefore, it would have been

Art Unit: 2635

obvious to a person skilled in the art at the time the invention was made to include said receiver storing information on how said user interacts with said in the device of Lovegreen because Lovegreen suggests a receiver with pager message and Sibbitt teaches said receiver storing information on how said user interacts with said receiver for the purpose of enhancing the paging system.

Regarding claim 29, Lovegreen teaches the system of claim 1 wherein said receiver is not stackable (col. 1, lines 52-55, receiver or paging coaster is given to customer and no longer stacked).

Regarding claim 30, Lovegreen teaches the system of claim 1 wherein said receiver is battery operated (col. 5, lines 18-22, electronic device 20 having rechargeable battery).

Claims 11 and 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen et al. (5,814,968) in view of Sibbitt (5,999,088) and Chuang (5,987,421).

All subject matters excluding said transmitter informs said receiver of queue status including updated information as to where a user is in the queue in claim 11 are disclosed in claim 1. However, Chuang discloses, in the art of restaurant paging system, said transmitter informs said receiver of queue status including updated

Art Unit: 2635

information as to where a user is in the queue (col. 12, lines 53–60, reminding user of the time increment remaining) for the purpose of enhancing the paging system.

Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include said transmitter informs said receiver of queue status including updated information as to where a user is in the queue in the device of Lovegreen in view of Sibbitt because Lovegreen in view of Sibbitt suggests a receiver with pager message and Chuang teaches said transmitter informs said receiver of queue status including updated information as to where a user is in the queue for the purpose of enhancing the paging system. Therefore rejection of the subject matters expressed in claim 11 are met by references and associated arguments applied to rejection of claim 1 and to rejection provided in the previous paragraph.

All subject matters in claims 25–26 are disclosed in claims 2–3. Therefore rejection of the subject matters expressed in claims 25–26 are met by references and associated arguments applied to rejection of claims 2–3.

Regarding claim 27, Lovegreen teaches the system of claim 11 wherein said transmitter comprises modes of communication with receivers (col. 1, line 49–59, restaurant owner transmits to receiver by sending signals to paging coaster).

Regarding claim 28, Lovegreen teaches the system of claim 11 wherein said

Art Unit: 2635

charger comprises modes of communication with receiver and transmitters (col. 1, line 49-59, a charger 10 communicates with restaurant owner transmitter and paging receiver 20).

Claims 6, 13 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt as applied to claim 1 above, and further in view of Diem (5,696,500).

Regarding claims 6, 13 and 17, Lovegreen in view of Sibbitt continues, as disclosed in claim 1, to disclose a display, and said transmitter can download software through remote access networks such as a telecommunication line or wireless network and said transmitter stores information. But Lovegreen in view of Sibbitt does not teach a keypad or touch panel display, and said transmitter can download software through hard media, diskette, telecommunication line and wireless service provider, and said transmitter stores information relating to interaction between said receiver and its users.

However, Diem teaches, in the art of paging system, a keypad or touch panel display (claim 6, col. 10, lines 33-36), and said transmitter can download software through hard media, diskette, telecommunication line and wireless service provider (claim 13, col. 3, lines 3-27, a set of multimedia commands for a software; col. 5, lines

Art Unit: 2635

34-48, diskette in the computer, a set of multimedia commands for a software, Fig. 1 - wireless transmission between antenna (110, 112), telecommunication line (col. 4, lines 5-15, a leased phone line)), and said transmitter stores information relating to interaction between said receiver and its users (col. 1, line 42 to col. 2, line 13, transmitter prepares and stores a set of multi-media commands to be used by said receiver) for the purpose of providing enhanced paging system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include mode of paging and interactive entertainment in the device of Lovegreen in view of Sibbitt as evidenced by Diem because Lovegreen in view of Sibbitt suggests an electronic paging system comprising; a display, and said transmitter can download software through remote access networks such as a telecommunication line or wireless network and said transmitter stores information and Diem teaches a keypad or touch panel display, and said transmitter can download software through hard media, diskette, telecommunication line and wireless service provider and said transmitter stores information relating to interaction between said receiver and its users for the purpose of providing enhanced paging system.

Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt as applied to claim 1 above, and further in view of Okayama et al. (6,157,316).

Regarding claim 2, Lovegreen in view of Sibbitt discloses a software programmer (Lovegreen—col. 6, lines 43–51, programmer associated with reprogramming the electronic device by uploading and downloading the software associated with data communication) which uploads and downloads software to and from said transmitter or receiver using wireless network. But Lovegreen in view of Sibbitt does not disclose a charger, which uploads and downloads software to and from said software programmer using telecommunication lines or a wireless network.

However, Okayama discloses, in the art of paging system, a charger, which uploads and downloads software to and from said software programmer using wire-line network (col. 6, lines 1–8, downloading to components of software programmer in the apparatus 103 via charger or PCMCIA I/F 8) for the purpose of automatically transferring software. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include a charger, which uploads and downloads software to and from said software programmer using remote access networks such as wire-line network in the device of Lovegreen in view of Sibbitt

because Lovegreen in view of Sibbitt suggests paging coasters to notify the customer to be seated at individual tables and Okayama teaches a charger which downloads software from said software programmer using remote access networks such as a wire-line network for the purpose of automatically installing the application program.

Furthermore, one of ordinary skill in the art recognizes wire-line network is analogous to wireless network or telecommunication lines for the purpose of transferring data or software remotely. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include wireless network or telecommunication lines in the device of Lovegreen in view of Sibbitt because Lovegreen in view of Sibbitt suggests wire-line network and one of ordinary skill in the art recognizes wireless network or telecommunication lines for the purpose of transferring data or software remotely.

Claims 7-8,10 and 18-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt as applied to claim 2 above, and further in view of Okayama et al. (6,157,316).

Regarding claims 7-8, Lovegreen continues, as disclosed in claim 2, to disclose said receiver can download software and data from said charger (Fig. 5, base unit (10))

Art Unit: 2635

and through conductive contacts (col. 6, 43–54, reprogramming the electronic devices (20) via conductive contacts (col. 6, lines 35–42, physical contacts)).

Regarding claim 10, Lovegreen continues, as disclosed in claim 2, to disclose the system wherein said receiver can perform a wireless upload or download to said charger (col. 5, lines 8–21, paging coasters, walkie talkies, cellular telephones, other rechargeable electronic devices).

Regarding claim 18–21, Lovegreen continues, as disclosed in claim 2, to disclose a single charger can support many receivers at one time (Fig. 5, chargers (10a–b) and receivers or pagers (20a–f)), said charger can support both charges and stores software (col. 6, lines 43–51, reprogramming the electronic devices from said charger), said charger stores information relating to how and when said receiver was used (col. 5, lines 18–22, providing stored information to paging coasters), and said charger can download software through hard media (Fig. 5, reprogramming the electronic devices through terminals (57a–b and 58a–b)).

Claims 23–24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt and Okayama et al. (6,157,316) as applied to claim 2 above, and further in view of Diem.

Art Unit: 2635

Regarding claims 23-24, Lovegreen continues, as disclosed in claim 2, to disclose said charger downloads software (col. 6, lines 43-51, reprogramming the electronic device) through hard media (Fig. 5, reprogramming the electronic devices through terminals (57a-b and 58a-b); col. 1, 1, lines 49-59, pager; col. 6, 43-54, a charger or base unit (10)). But Lovegreen in view of Sibbitt and Okayama does not disclose said charger can download software through telecommunication line and wireless service provider.

However, Diem discloses, in the art of paging system, said transmitter can download software (col. 3, lines 3-27, a set of multimedia commands for a software) through telecommunication line and wireless service provider (telecommunication line (col. 4, lines 5-15, a leased phone line); Fig. 1 - wireless transmission between antenna (110, 112) within the paging environment) as a hard media of downloading software. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include telecommunication line and wireless service provider in the device of Lovegreen in view of Sibbitt and Okayama as evidenced by Diem because Lovegreen in view of Sibbitt and Okayama suggests hard media and Diem teaches telecommunication line and wireless service provider as a hard media of downloading software.

Art Unit: 2635

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt as applied to claim 1 above, and further in view of McNally et al. (5,850,214).

Regarding claim 12, Lovegreen continues, as disclosed in claim 1, to disclose paging coasters (col. 1, lines 49-59, paging coasters) to notify the customer to be seated at individual tables. But, Lovegreen et al. in view of Sibbitt does not disclose said transmitter tracks the last several pages that were made.

However, McNally discloses, in the art of restaurant paging system, said transmitter tracks the last several pages that were made (col. 5, lines 32-65, restaurant wait list mode of the clipboard acts as transmitter to transmit the waiting status to the pager, and updating the paged status by providing the light) to control the seating arrangement of the restaurant. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include said transmitter tracks the last several pages that were made in the device of Lovegreen et al. in view of Sibbitt because Lovegreen et al. in view of Sibbitt suggests paging coasters to notify the customer to be seated at individual tables and McNally teaches said transmitter tracks the last several pages that were made to control the seating arrangement in the restaurant.

Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Lovegreen in view of Sibbitt as applied to claim 1 above, and further in view of Hymel (6,114,969) and Wicks (5,942,969).

Regarding claim 3, Lovegreen continues, as disclosed in claim 1, to disclose a pager. But Lovegreen in view of Sibbitt does not disclose mode of paging, advertising and interactive entertainment using two-way communication with other receivers and devices.

However, Hymel discloses, in the art of paging system, mode of paging, advertising (col. 3, 16-30, message received; col. 4, lines 7-52, advertisement message followed by update message) using two-way communication (col. 7, lines 51-61, SCR transmit to the communication center) for the purpose of providing enhanced system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include mode of paging, advertising using two way communication in the device of Lovegreen in view of Sibbitt as evidenced by Hymel because Lovegreen in view of Sibbitt suggests the pager and Hymel teaches mode of paging, advertising using two way communication for the purpose of providing enhanced paging system.

Art Unit: 2635

Likewise, Wicks discloses, in the art of paging system, mode of paging and interactive entertainment (col. 3, lines 39-50, and col. 5, lines 21-32, two-way pager and treasure hunt) for the purpose of providing enhanced paging system. Therefore, it would have been obvious to a person skilled in the art at the time the invention was made to include mode of paging and interactive entertainment in the device of Lovegreen in view of Sibbitt as evidenced by Wicks because Lovegreen in view of Sibbitt suggests the pager and Wicks teaches mode of paging and interactive entertainment for the purpose of providing enhanced paging system.

Contact Information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matsuichiro Shimizu whose telephone number is (703) 306-5841. The examiner can normally be reached on Monday through Friday from 8:00 AM to 4:30 PM. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Horabik, can be reached on (703-305-4704). The fax phone number for the organization where this application or proceeding is assigned is (703-305-3988).

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703-305-8576).

Matsuichiro Shimizu

December 15, 2003



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